IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No.2878 of 2006

Date of decision : 12.10.2006.

Soran Ram & Ors.

.....Petitioners.

Versus

Sarupa & Ors..

.....Respondents.

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr.Ajay Jain, Advocate
for the petitioners.

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VINOD K. SHARMA,J.(ORAL)

The present revision petition has been filed against the order dated 20.2.2006 passed by the learned Civil Judge (Sr.Divn.), Karnal vide which the objection filed by Sh. Sarupa have been accepted.

The learned Executing Court took note of the fact that Sarupa had filed suit for injunction claiming that he was tenant on the property and, therefore, could not be ejected by the decree-holder i.e. Sh. Munshi, who has allegedly sold the property. The learned Executing Court also came to the conclusion that though the objector was shown as tenant for the first time in 1986-87, however, it was prior to that because it was depicted in 1985. In view of the finding recorded by the learned executing Court the objection petition and order that the respondent-herein could not be ejected in pursuance to the warrant of possession as the petitioner was required to proceed in accordance with law for eviction of the tenant.

The learned counsel for the petitioner placed reliance on the full Bench Judgment of this Court in **Hukam Singh Vs. Hakumat Rai 1967 PLR 743** to contend that the tenant ejected by the vendee cannot be said to be a tenant of the pre-emptor and, therefore, not entitled to protect his eviction in pursuance to the decree. The learned Executing Court has considered the judgment of this full Bench and came to the conclusion that the facts of the same are not applicable as in the present case there is no finding recorded that the respondent was ejected by the vendee as tenant rather in the present case two earlier suit for injunction filed by Sh. Sarupa have been decreed against the petitioner. Even otherwise, the Executing Court has held that Sarupa claims himself a tenant of Munshi, therefore, tenant cannot be ejected by the vendee.

There is no error or illegality in the impugned order which may call for interference by this Court under Article 227 of the Constitution of India.

Dismissed.

October 12,2006 **(VINOD K. SHARMA)**
'sp' **JUDGE**